# SUPREME COURT OF THE UNITED STATES.

## No. 45.

ISAAC COOPER, PLAINTIFF IN ERROR,

vs.

JOHN MATHEYS.

IN ERROR TO THE CIRCUIT COURT UNITED STATES, FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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J. & G. S. GIDEON, Printers.

Pleas before the honorable the Judges of the Circuit Court of the United States in and for the Eastern District of Pennsylvania, in the third circuit at Philadelphia, of October session, A. D. one thousand eight hundred and forty. It is thus contained:

John Matheys, late of the eastern district of Pennsylvania, car-builder, was attached to answer Isaac Cooper, of a plea of trespass on the case, and so forth, and whereupon the said Isaac Cooper, by J. R. Ingersoll, his attorney, complains that before and at the time of making the letters patent, hereinafter mentioned, the said Isaac Cooper was a citizen of the United States, and was the true and original inventor of a new and useful improvement in constructing railroad carriages, which improvement had not been known or used before the said invention by the said Isaac Cooper; and having made oath that he did really believe he was the true inventor and discoverer of the said improvement, and having paid into the Treasury of the United States the sum of thirty dollars, and delivered to the Secretary of State a receipt for the same, and presented a petition to the Secretary of State, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent might be granted for that purpose, accompanied by a written description of his said invention, and of the manner of using the same, in such full, clear, and exact terms, as to distinguish the same from other things before known, and to enable any person skilled in the art or science of which it was a branch, or with which it was most nearly connected, to make and use the same, signed by himself, and attested by two witnesses, together with a model, drawings and written references, in pursuance of the act of Congress entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose." Whereupon, to wit, on the twenty-fifth day of October, one thousand eight hundred and thirty-two, at the city of Washington, to wit, at the district aforesaid, letters patent were duly made out, in the name of the United States, bearing test by the President of the United States, reciting the allegations and suggestions of the said petition, and giving a short description of the said invention, and granting to the said Isaac Cooper, his heirs, administrators or assigns, for the term of fourteen years from the said twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement; which letters patent were then and there delivered to the Attorney General of the United States, to be examined by him, and certified to be conformable to law, and returned to the Secretary of State, within fifteen days thereafter, and were then and there so examined, certified, and returned, and the Secretary of State having then and there caused the said letters patent, thus certified, to be signed, and the seal of the United States to be thereto affixed, the same were there and then delivered to the said

Isaac Cooper. And, whereas, the said Isaac Cooper, on the twenty-first day of October, one thousand eight hundred and thirty-nine, at Washington, to wit, at the district aforesaid, made application to the Commissioner of Patents of the United States, and alleged that he had invented the said new and useful improvement in constructing railroad carriages, that a patent was granted therefor, bearing date the twenty-fifth day of October, one thousand eight hundred and thirty-two, and that the said patent was lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and made oath that the documents annexed were true copies of the original specifications and drawings which, with the patent, were lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and presented a petition to the Commissioner of Patents, praying that a new patent might be granted. Whereupon there was granted, on the said twenty-first day of October, eighteen hundred and thirty-nine, under the seal of the Patent Office, and by the Secretary of State, according to law, to the said Isaac Cooper, his heirs, administrators, or assigns, for the term of fourteen years, from the twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement—a description whereof was given in the words of the said Isaac Cooper, in the schedule thereunto annexed.

Yet the said John Matheys, well knowing the premises, but contriving and wrongfully and injuriously intending to injure the said Isaac Cooper, and to deprive him of the profits, benefits, and advantages, which he might and otherwise would have derived and acquired from the exclusive making, constructing, using, and vending to others to be used, the said invention, after the making of the said letters patent, and within the term of years in the said letters patent mentioned, to wit, on the first day of December, one thousand eight hundred and thirty-nine, and on divers other days and times between that day and the day of the purchase of the writ, to wit, at the district aforesaid, unlawfully and unjustly, and without the will or license, and against the will of the said Isaac Cooper, did make the said improvement so invented by the said Isaac Cooper, contrary to the form of the act of Congress in such case made and provided, and against the privilege so granted to the said Isaac Cooper, his heirs, administrators, or assigns, as aforesaid. And whereas, also, the said Isaac Cooper, heretofore, to wit, at and before the time of making the letters patent, hereinafter mentioned, was a citizen of the United States, and was the true and original inventor of a certain new and useful improvement in the mode of constructing railroad carriages, which improvement had not been known or used before his application, and having made oath that he did verily believe that he was the true inventor or discoverer of this said improvement, and having paid into the Treasury of the United States the sum of thirty dollars, and delivered to the Secretary of State a receipt for the same, and presented a petition to the Secretary of State signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent might be granted for

that purpose, accompanied by a written description of his said invention, and of the manner of using the same, in such full, clear, and exact terms as to distinguish the same from any other things before known, and to enable any person, skilled in the art or science of which it was a branch, or with which it is most nearly connected, to make and use the same, signed by himself, and attested by two witnesses, together with a model and written specifications, in pursuance of an act of Congress entitled "An act to promote the progress of the useful arts, and to repeal the act heretofore made for that purpose." Whereupon, to wit, on the twenty-fifth day of October, one thousand eight hundred and thirty-two, at the city of Washington, to wit, at the district aforesaid, letters patent were duly made out, in the name of the United States, bearing test by the President of the United States, reciting the allegations and suggestions of the said petition, and giving a short description of the said invention, and granting to the said Isaac Cooper, his heirs, administrators, and assigns, for the term of fourteen years from the said twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the same improvement; which letters patent were then and there delivered to the Attorney General of the United States, to be examined, and by him certified to be conformable to the said act, and returned to the Secretary of State, within fifteen days thereafter; and were then and there so examined, certified, and returned, and the Secretary of State, having then and there caused the said letters patent, thus certified, to be signed, and the seal of the United States to be thereto affixed, the same were then and there delivered to the said Isaac Cooper. And, whereas, the said Isaac Cooper, on the twenty-first day of October, one thousand eight hundred and twenty-nine, at the city of Washington, to wit, at the district aforesaid, made application to the Commissioner of Patents of the United States, alleging that he had invented the said new and useful improvement in constructing railroad carriages; that a patent was granted therefor, bearing date the twenty-fifth day of October, one thousand eight hundred and thirty-two; and that the said patent was lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six; and deposited in the Patent Office a duplicate of the original model, (as near as might be,) drawing, and description, verified by oath, and made oath that the documents thereto annexed were true copies of the original specifications and drawings, which, with the patent, were lost prior to the fifteenth of December, one thousand eight hundred and thirty-six; and presented a petition to the Commissioner of Patents, praying that a new patent might be granted.

Whereupon there was granted, on the said twenty-fifth day of October, one thousand eight hundred and thirty-nine, at the city of Washington, at the district aforesaid, under the seal of the Patent Office, and by the Secretary of State, according to law, to the said Isaac Cooper, his heirs, administrators, or assigns, for the term of fourteen years, from the twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing,

using, and vending to others to be used, the said improvement, a description whereof was given, in the words of the said Isaac Cooper, in the schedule thereunto annexed.

Yet the said John Matheys, well knowing the premises, but contriving, and wrongfully and injuriously intending to injure the said Isaac Cooper, and to deprive him of the profits, benefits, and advantages which he might and otherwise would have derived and acquired from the exclusive making, constructing, using, and vending to others to be used, the said invention, after the making of the said letters patent, and within the term of years in the said letters patent mentioned, to wit, on the first day of December, one thousand eight hundred and thirty-nine, and on divers others days and times between that day and the day of the purchase of this writ, at the district aforesaid, unlawfully and unjustly, without the leave or license, and against the will of the said Isaac Cooper, did use the improvement in constructing railroad carriages of the said Isaac Cooper, being the thing whereof the exclusive right is secured, as aforesaid, to the said Isaac Cooper, contrary to the form of the act of Congress in such case made and provided, and against the said privilege so granted to the said Isaac Cooper, his heirs, administrators, or assigns as aforesaid.

And whereas, also, the said Isaac Cooper heretofore, to wit, at and before the time of making the letters patent hereinafter mentioned, was a citizen of the United States, and was the true and original inventor of a certain new and useful improvement in the mode of constructing railroad carriages, which improvement had not been known or used before his application; and having made oath that he did verily believe that he was the true inventor or discoverer of this said improvement, and having paid into the Treasury of the United States the sum of thirty dollars, and delivered to the Secretary of State a receipt for the same, and presented a petition to the Secretary of State signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent might be granted for that purpose, accompanied by a written description of his said invention, and of the manner of using the same, in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it was a branch, or with which it is most nearly connected, to make and use the same, signed by himself, and attested by two witnesses, together with a model and written specifications, in pursuance of an act of Congress entitled "An act to promote the progress of the useful arts, and to repeal the act heretofore made for that purpose." Whereupon, to wit, on the twenty-fifth day of October, one thousand eight hundred and thirty-two, at the city of Washington, to wit, at the district aforesaid, letters patent were duly made out in the name of the United States, bearing test by the President of the United States, reciting the allegations and suggestions of the said petition, and giving a short description of the said invention, and granting to the said Isaac Cooper, his heirs, administrators, and assigns, for the term of fourteen years from the said twenty-fifth day of October, one thousand eight

hundred and thirty-two, the full and exclusive right of making, constructing, and using, and vending to others to be used, the same improvement; which letters patent were then and there delivered to the Attorney General of the United States to be examined, and by him certified to be conformable to the said act, and returned to the Secretary of State within fifteen days thereafter, and were then and there so examined, certified, and returned; and the Secretary of State having then and there caused the said letters patent, thus certified, to be signed, and the seal of the United States to be thereto affixed, the same were then and there delivered to the said Isaac Cooper; and whereas the said Isaac Cooper, on the twenty-first day of October, one thousand eight hundred and thirty-nine, at the city of Washington, to wit, at the district aforesaid, made application to the Commissioner of Patents of the United States, alleging that he had invented the said new and useful improvement in constructing railroad carriages; that a patent was granted therefor, bearing date the twenty-fifth day of October, one thousand eight hundred and thirty-two, and that the said patent was lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and made oath that the documents thereto annexed were true copies of the original specifications and drawings which, with the patent, were lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and presented a petition to the Commissioner of Patents, praying that a new patent might be granted. Whereupon, there was granted, on the said twenty-fifth day of October, one thousand eight hundred and thirty-nine, at the city of Washington, at the district aforesaid, under the seal of the Patent Office, and by the Secretary of State, according to law, to the said Isaac Cooper, his heirs, executors, administrators, and assigns, for the term of fourteen years from the twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof was given in the words of the said Isaac Cooper in the schedule thereunto annexed.

Yet the said John Matheys, well knowing the premises, but contriving, and wrongfully and *ingeniously* intending to injure the said Isaac Cooper, and to deprive him of the profits, benefits, and advantages which he might and otherwise would have derived and acquired from the exclusive making, constructing, using, and vending to others to be used, the said invention, after the making of the said letters patent, and within the term of years in the said letters patent mentioned, to wit, on the first day of December, one thousand eight hundred and thirty-nine, and on divers other days and times between that day and the day of the purchase of this writ, at the district aforesaid, unlawfully and unjustly, and without the leave or license, and against the will of the said Isaac Cooper, did make and sell the improvement in constructing railroad carriages of the said Isaac Cooper, being the thing whereof the exclusive right is secured as aforesaid to the said Isaac Cooper, contrary to the form of the act of Congress in such case made and provided, and against the said privilege so granted to the said Isaac Cooper, his

heirs, administrators, or assigns, as aforesaid. And whereas, also, the said Isaac Cooper heretofore, to wit, at and before the time of making the letters patent hereinafter mentioned, was a citizen of the United States, and was the true and original inventor of a certain new and useful improvement in the mode of constructing railroad carriages, which improvement had not been known or used before his application, and having made oath that he did verily believe that he was the true inventor or discoverer of this said improvement, and having paid into the Treasury of the United States the sum of thirty dollars, and delivered to the Secretary of State a receipt for the same, and presented a petition to the Secretary of State signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent might be granted for that purpose, accompanied by a written description of his said invention, and of the manner of using the same, in such full, clear, and exact terms as to distinguish the same from all other things before known, and to make any person skilled by the art or science of which it was a branch, or with which it is most nearly connected, to make and use the same, signed by himself, and attested by two witnesses, together with a model and written specifications, in pursuance of an act of Congress entitled "An act to promote the progress of the useful arts, and to repeal the act heretofore made for that purpose." Wherefore, to wit, on the twenty-fifth day of October, one thousand eight hundred and thirty-two, at the city of Washington, to wit, at the district aforesaid, letters patent were duly made out in the name of the United States, bearing test by the President of the United States, reciting the allegations and suggestions of the said petition, and giving a short description of the said invention, and granting to the said Isaac Cooper, his heirs, administrators, and assigns, for the term of fourteen years from the said twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right of making, constructing, and using, and vending to others to be used, the same improvement; which letters patent were then and there delivered to the Attorney General of the United States to be examined, and by him certified to be conformable to the said act, and returned to the Secretary of State within fifteen days thereafter, and were then and there so examined, certified, and returned; and the Secretary of State having then and there caused the said letters patent, thus certified, to be signed, and the seal of the United States to be thereto affixed, the same were then and there delivered to the said Isaac Cooper; and the said Isaac Cooper, on the twenty-first day of October, one thousand eight hundred and thirty-nine, at the city of Washington, to wit, at the district aforesaid, made application to the Commissioner of Patents of the United States, alleging that he had invented the said new and useful improvement in constructing railroad carriages; that a patent was granted therefor, bearing date the twenty-fifth day of October, one thousand eight hundred and thirty-two, and that the said patent was lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and made oath that the documents thereto annexed were true copies of the original specifications

and drawings which, with the patent, were lost prior to the fifteenth day of December, one thousand eight hundred and thirty-six, and presented a petition to the Commissioner of Patents, praying that a new patent might be granted. Whereupon, there was granted, on the said twenty-fifth day of October, one thousand eight hundred and thirty-nine, at the city of Washington, at the district aforesaid, under the seal of the Patent Office, and by the Secretary of State, according to law, to the said Isaac Cooper, his heirs, executors, administrators, and assigns, for the term of fourteen years from the twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof was given in the words of the said Isaac Cooper in the schedule thereto annexed.

Yet the said John Matheys, well knowing the premises, but contriving, and wrongfully and injuriously intending to injure the said Isaac Cooper, and to deprive him of the profits, benefits, and advantages which he might and otherwise would have derived and acquired from the exclusive making, constructing, using, and vending to others to be used, the said invention, after the making of the said letters patent, and within the term of years in the said letters patent mentioned, to wit, on the first day of December, one thousand eight hundred and thirty-nine, and on divers other days and times between that day and the day of the purchase of this writ, at the district aforesaid, unlawfully and unjustly, and without the leave or license, and against the will of the said Isaac Cooper, did sell, the improvement in constructing railroad carriages of the said Isaac Cooper, being the thing whereof the exclusive right is secured, as aforesaid, to the said Isaac Cooper, contrary to the form of the act of Congress in such case made and provided, and against the said privilege so granted to the said Isaac Cooper, his heirs, administrators, and assigns as aforesaid.

By means whereof, and by reason of the premises, the said Isaac Cooper does say that he, the said Isaac Cooper, has been greatly injured, and has sustained damage to the value of — thousand dollars lawful money of the United States, action whereof hath accrued to the said Isaac Cooper to demand and recover the same of the said John Matheys, and therefore he brings suit, and brings here into court the letters patent aforesaid, and that the same may be seen by the court.

And the said John Matheys, by James Todd, Esq. his attorney, comes and defends the force and injury, when, &c., and says that he is not guilty of the trespass aforesaid, in manner and form as the said Isaac Cooper above against him hath complained. And of this he puts himself upon the country. And the said Isaac Cooper does likewise the same, &c. Therefore let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the twelfth day of April next, by whom, &c., and who neither, &c., to recognise, &c., because as well, &c. The same day is given to the parties aforesaid, then and there, &c. On which said twelfth day of April, one thousand eight hundred and forty-one, come the parties aforesaid by their attorneys aforesaid, and further

day is given to the parties aforesaid, until the eleventh day of October next, then and there, &c. Therefore, as before, let a jury thereupon come before the judges aforesaid, at Philadelphia aforesaid, on the eleventh day of October, eighteen hundred and forty-one, by whom, &c., and who neither, &c., to recognise, &c., because, as well, &c. The same day is given to the parties aforesaid then and there, &c.

On which said eleventh day of October, one thousand eight hundred and forty-one, come the parties aforesaid, by their attorneys aforesaid. And now, a jury being called, come, to wit, Michael F. Groves, John Rakestraw, John Lindsay, Henry D. Stever, Alexander McCaraher, Thomas Cook, William Parker, William English, William Stephens, Samuel Lloyd, Joseph Price, Sr. and James Hutchinson, who are duly empannelled, returned, chosen, tried, and sworn, or affirmed, to speak the truth of the matter within contained.

THE UNITED STATES OF AMERICA, to all to whom these letters patent shall come:

Whereas, Isaac Cooper, of New Castle, Delaware, has alleged that he invented a new and useful "improvement in constructing railroad carriages;" that a patent was granted therefor, bearing date the 25th day of October, 1832; and that the said patent was lost prior to the 15th day of December, 1836; has made oath that the annexed are true copies of the original specifications and drawings, which, with the patent, were lost prior to the 15th day of December, 1836; and presented a petition to the Commissioner of Patents, praying that a new patent may be granted.

These are, therefore, to grant, according to law, to the said Isaac Cooper, his heirs, administrators, or assigns, for the term of fourteen years, from the twenty-fifth day of October, one thousand eight hundred and thirty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Isaac Cooper, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof I have caused these letters to be made
[L. S.] patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand, at the city of Washington, this twenty-first day of October, in the year of our Lord one thousand eight hundred and thirty-nine, and of the Independence of the United States of America the sixty-fourth.

JOHN FORSYTH,
*Secretary of State.*

Countersigned and sealed with the seal of the Patent Office.

HENRY L. ELLSWORTH,
*Commissioner of Patents.*

I do hereby certify that the foregoing patent, the original having been lost previous to the burning of the Patent Office building, on the 15th day of December, 1836, has been made and issued pursuant to the pro-

visions of the third section of the act of 3d of March, 1837, entitled "An act in addition to the act to promote the progress of science and the useful arts."

In testimony whereof I have hereunto affixed the seal of the [L. S.] Patent Office, and my signature, this twenty-first day of October, 1839.

H. L. ELLSWORTH,
*Commissioner of Patents.*

The schedule referred to in these letters patent, and making part of the same.

Be it known that I, Isaac Cooper, of New Castle, New Castle county, and State of Delaware, have made an improvement in the mode or manner of constructing carriages for railroads, which is described as follows:

*To construct the safety carriages.* Take two pieces of timber of any required size, say ten feet long, seven inches broad, by four inches thick; make five mortises through each of those timbers of any suitable size, say three inches square, one mortise to be made about one foot from each end of said timbers; one other mortise to be made two feet from the first, and one to be made in the centre.

Take five other pieces of timber of any required size, say seven inches wide by three inches thick, and of such length as, when framed into the side pieces, will suit the width of the road on which the carriage is to move. Make on each end of each of the five pieces a tenon suited to the size of the mortises in the side pieces, and of such length as to project through the side pieces.

Make two other timbers or bars of any required size, say six inches wide and five inches thick, and about eleven feet long. Make two long mortises in each of these bars or timbers, say ten inches long by one inch wide, and to go through the pieces, and to be placed about nineteen inches from each end of said bars; bore two holes through each bar or timber directly in the centre of, and on a line with, the beforementioned long mortises, and about two feet from the centre of said mortise towards the middle of said bar.

Now put the frame thus fitted together. The two first timbers mentioned are the side pieces, in which the boxes in which the axles revolve are attached.

The five next timbers that are mentioned are the cross timbers of the carriage; the two last mentioned bars or timbers are what I term safety bars. When the cross timbers are driven into their respective mortises, they must be secured by bolts passing through the side timber, and through the tenon in the ends of the cross timbers.

The frame being put together, proceed to prepare it for the safety bars by boring two holes about twenty inches from each end of each front or end cross timber; each two of these holes are to be about ten inches apart, and running vertically through the cross timbers; these holes are for the tangs of the large square staples (on which the safety bar slides) to pass through; bore one hole near the ends of each of the

next inner cross timbers, so as to line with a point in the centre between each pair of tangs of the staples above mentioned. Place a block on each side of the centre cross timber about six inches wide, and as long as the width of the centre cross timber, and about two inches thick; bolt on or against each of these blocks a piece of good timber, about five feet six inches long, and about seven inches broad, and two-and-a-half inches thick, to serve as a spring for the safety bars to strike against when the carriage stops suddenly; in case of one bar being used, the spring must be placed on each of the two timbers next the end ones, and a block placed under it at each end, on to which it is bolted; the hole for the bolt must be oblong, so as to permit the spring to work. Make four timbers, seven inches wide and three inches thick, and so long as to reach from the second or inner cross timber to the centre cross timber; these timbers are to be notched, tenoned or bolted to the cross timbers above mentioned, one foot from the inner side of the side piece of the frame, and to which they are parallel, and are what I term the guard timbers. The bars should be placed as near the wheels as will allow room for the lateral or side play; the bars are secured to the end or outer cross timber of each carriage by means of a staple of double the width of the bar, (between the tangs,) each of the tangs having a screw and nut on the end. This staple secures the bar in its position against the cross timbers by passing round the under part and sides of said bar, and through the cross timbers, when it is secured by a bolt and nut; a bolt also passes through the long mortise of the bar, and through the other or next inner cross timber, and is also secured by a bolt and nut; this nut must not be screwed so tight as to prevent the bar from working freely on it, the bolt being the pivot.

The staple must also be left so as to permit the bar to slide freely on it. When these bars are attached to each carriage as described, both wheels, next the end to which the bars are attached, may be taken out, and the carriage will be sustained by the bars; or each carriage may have but one pair of wheels, which should be placed in the centre; the ends of the carriage would be supported by the bars, and, on roads of short curves, they would be better than four wheels, as the axles would always be in the radius of the curve it was passing over. The bar, instead of passing underneath the cross timbers, may pass through an opening in the centre of the cross timbers, and be of iron instead of wood; the carriage may be secured from any unnecessary lateral motion on the road by transverse chains extending from the side piece of one carriage to the side piece of the other in a diagonal direction. When iron bars are used, there should be an eye on the end to receive a block, or a cushion will answer. The safety bars should also have a block or cushion on the ends of them to break the jar when forced against the spring that keeps them from striking against the centre cross timber.

*Invention claimed.*

What I claim as my peculiar invention, and for which I ask a patent, is the mode or manner of applying safety beams or bars to railroad car-

riages, whereby the carriage will be sustained should one or more wheels and axles be broken. I also claim the guard timbers, which will prevent the wheel falling into the road, or axle from flying up should it be broken. I also claim the application of a staple passing under the axle and up through the guard timbers, to prevent the axle dropping should it be broken. I also claim the application of the spring timbers, for taking up the concussion when the carriage stops. I also claim the application of transverse chains, to secure the carriage from improper lateral play on the road; also, for my manner of attaching the cushions or fenders. For a further illustration of my invention or improvement, I refer to my models and drawings deposited in the Patent Office.

In witness whereof, I have hereunto subscribed my name, at the city of Washington, this 15th day of October, in the year of our Lord eighteen hundred and thirty-two.

ISAAC COOPER.

Witnesses—CHAS. M. KELLER,
ROBT. CLARK.

Isaac Cooper, being duly sworn according to law, says that the first cars that were built with the improvement of the deponent was by the New Castle and Frenchtown railroad company, in 1832. That company then purchased of the deponent the right to use the same. He knew of no others being constructed by any persons except himself, until the year 1835, when he found that the line of D. Leech & Co. were constructing cars on the plan and with the improvement of the deponent; and he immediately gave notice to Merrick Munson, the agent at Johnstown, and a stockholder, and party interested in the concern, the deponent informed him of his patent right, forbid the violation of it, and informed him that he should make them responsible if they persisted. The next deponent knew of was a person named Boyle, of Blairsville; the deponent immediately employed an attorney, and authorized him to receive a settlement, which deponent understood was made. Deponent lost his patent in 1836, and knew of no person using his improvement for a considerable time. The deponent now has been able to find it, and caused it to be renewed in 1839. Lately the deponent has learned of the various improvements in Philadelphia, and immediately forbid the use. He delayed no time after his knowledge of the fact. The deponent has been in Johnstown since 1834, with occasional absences. Most of these violations have been, as the deponent believes, of *any* recent occurrence; and he has given notice, and endeavored to negotiate arrangements when discovered; giving notice at the same time not to use the same. This has been his general practice.

ISAAC COOPER.

Sworn and subscribed the 30th of March, 1840.

WILLIAM MILNOR, *Ald.*

CITY AND COUNTY OF PHILADELPHIA, *ss:*

Personally appeared before me, Frederick D. Sanno, who, being duly sworn, doth depose and say, that he saw in use the springs, with their

bumpers substantially the same as those used by Matheys and Parker, in their cars, in the year 1826. In the latter end of June, the cars were used on the Mauch Chunk road. These springs were in general use in the cars in which the passengers were conveyed.

F. D. SANNO.

Subscribed and sworn to before me, this 24th day of April, A. D. 1840.

GEO. GRISCOM, *Alderman.*

ISAAC COOPER, plaintiff,
*vs.*
JOHN MATHEYS, defendant. } In the Circuit Court of the United States.

John Matheys, of the city of Philadelphia, maketh oath and saith, that he has been in the business of manufacturing cars, to be used on the railroads in Pennsylvania, as a master workman for three years past; during all that time no application was made by Mr. Cooper, the complainant, or any one for him, alleging that I was in any way interfering with his patent rights, until within the last two weeks. Deponent never saw the model of Mr. Cooper, until the 14th of the present month; that, to the best of deponent's knowledge, he never has in any way used the invention of Mr. Cooper, the complainant, or any part thereof, nor ever heard that there was a patent granted to any one for what he now claims. Deponent further states, that he is now engaged in building cars upon his own plan, and upon that of engineers for Pennsylvania. That deponent is now building cars upon plans which in no way interfere with the patent of Mr. Cooper, the complainant; has about twelve hands in his employment; has undertaken by contract, which he is bound to fulfil, to deliver, as soon as practicable, five cars to persons who are carriers on the Pennsylvania improvements. That, in making cars, deponent is pursuing the same plan as that pursued by John Arnold, who immediately preceded him in the business, with some improvements of his own; that Arnold was many years engaged in the business in the shop now occupied by deponent immediately preceding the time when he (deponent) undertook the business as master workman; that deponent will, in due time, file a regular answer to the complaint of Mr. Isaac Cooper.

JOHN MATHEYS.

Sworn before me, this 16th April, 1840.

HENRY BALDWIN.

*Supplementary affidavit.*

The said John Matheys, being duly sworn, doth depose and say, that to deponent's own knowledge, John Arnold, who occupied the shop now occupied by deponent, was engaged in manufacturing cars for use on railroads similar to those now made by deponent ever since the years 1831 or 1832; and to deponent's knowledge, and to the best of his belief, no claim was ever made by Mr. Cooper, the present complainant, or any one for him, alleging any infringement of his invention or of his alleged patent. Deponent further states that he never has built any car for railroad use, or otherwise, upon the plan devised by Mr. Cooper;

that he has not heretofore used his improvement or invention; and that he does not intend to use it hereafter. Deponent further states, that if any sales have been made by the said Isaac Cooper, they must have been made within the last few months, as he (this deponent) never heard of any sale until within the last two weeks.

JOHN MATHEYS.

Sworn before me, this 17th April, 1840.

HENRY BALDWIN.

Thomas B. Parker, being duly sworn, doth depose and say that he is a citizen of Philadelphia, and at this time resides therein; that, in the summer of 1836, deponent commenced building cars as a master workman, having a number of hands under his employment; that, from that time until the fall of 1839, he continued engaged in the business; that he constructed his cars upon the same plan as those built by Arnold and Matheys, and as ordered and directed by the engineers of Pennsylvania; that he never heard of Isaac Cooper, nor his alleged patent, until about the last of March or the first of April, of the present year; that he saw, for the first time, the model of Mr. Cooper on the 15th of the present month; that, after a careful examination of that model, he does not hesitate to say that he never has used his improvement, (if it be an improvement,) and that he does not intend, hereafter, to use it in any way in the building of cars or otherwise. Deponent further states that the plan heretofore used by him has, to his knowledge, been in general use in Pennsylvania, without let or hindrance, ever since the year 1835. Deponent further states that, if any sales have been made by Mr. Cooper under his alleged patent, they must have been made within the last few months, as he never heard of any such sale until the last of March or first of April of the present year.

THOMAS B. PARKER.

Sworn before me, this 17th April, 1840.

HENRY BALDWIN.

ISAAC COOPER
vs.
JOHN MATHEYS. } C. C.

Isaac Cooper, the complainant abovenamed, being duly sworn according to law, says that, until within the last few days, he had no knowledge whatever of the defendant's being engaged in making railroad cars, or of his having made them. He had no knowledge or information of any other person or persons being so engaged, or having been so employed here, except Richard Imley, and immediately called and had a perfectly satisfactory arrangement with him. Mr. Imley did not contest plaintiff's patent right. Robert Gadesby is now engaged at Johnstown in building cars under a license from the deponent, for which he has paid him six hundred dollars. Similar arrangements have been made, in Philadelphia, with other individuals. The defendant's cars, or those made by him, are in direct violation of the deponent's patent

right; they have the guard timber and other framing which is invented and patented by the deponent, and also the spring, which is fixed a little differently, merely being outerside instead of inside of the frame.

ISAAC COOPER.

Sworn and subscribed, the 17th of April, 1840.

WILLIAM MILNOR, *Alderman.*

ISAAC COOPER
vs.
JOHN MATHEYS.

Peter Allison, being duly sworn, says that he is familiar with the construction of railroad carriages, and is himself engaged as a manufacturer of them. He has seen the cars made by John Matheys, which are in use. They are made upon the same plan of framing as those which are described in the specification attached to the patent of Isaac Cooper. They have the same guard timber as that in Isaac Cooper's plan, and they have the same spring bumpers, except that they are used outside instead of being used within. In the construction of the short cars, the defendant has not uniformly used the guard timber; but they all have the spring bumper. The deponent believes that the improvement is original with Isaac Cooper, and that the cars constructed by John Matheys are in direct violation thereof.

PETER ALLISON.

Sworn and subscribed, the 18th of April, 1840.

WILLIAM MILNOR, *Alderman.*

Be it remembered that at the — sessions of the circuit court of the United States, for the eastern district of Pennsylvania, in the year one thousand eight hundred and —, came Isaac Cooper, and impleaded — Matheys in a certain suit or action, on the case in which the said plaintiff declared (prout narr.,) and the said defendant pleaded (prout plea,) and issue was thereupon joined, and the said defendant gave notice (prout notice.) And afterwards, to wit, the eleventh of October, one thousand eight hundred and forty-one, at the city of Philadelphia, in the district aforesaid, before the honorable Henry Baldwin, one of the justices of the Supreme Court of the United States, and the honorable Joseph Hopkinson, the aforesaid issue between the said parties came to be tried by a jury of the district aforesaid, for that purpose duly empannelled; at which day came the said plaintiffs, as the said defendants, by their respective attorneys; and the jurors aforesaid being also called, came, and were then and there in due manner chosen, and sworn or affirmed to try the said issue; and the counsel for the plaintiff, to maintain the said issue on his part, gave in evidence, the patent and specification of the said plaintiff, drawing, and several models, (prout the same.)

And the plaintiff's counsel thereupon called as witnesses Peter Allison, Samuel T. Barton, and George Brook, who testified respectively, as follows:

COOPER, vs. MATHEYS. } C. C., October 11, 1841.

*J. R. I. opens for the plaintiff.*

Peter Allison sworn: I know D.; the beam on cars is used on our State road manufactured by D. The spring that D. makes, this represents. I don't know how many—500 or 600 of them on the State road are in use. D. has been three or four years engaged in manufacturing. I have been at his place, and have seen the cars in progress of manufacture about a year since—last summer twelvemonth. I have been there several times. The spring is useful. It is generally used for freight cars and passenger cars. I deem a spring of some kind necessary. The bar or safety beam is in use in most instances. It has been useful in some cases—where the box has been applied to it to prevent the axle from flying up. Without being attached to the box there would be little use in the beam. As this is, there is no necessity for the attachment to the box. A box or staple is necessary.

I am in car building and coachmaking business. Five years last April car-building. In Broad street, between Race and Vine. Here is the spring we use outside—Mr. Matheys and myself. This long beam has been applied only to long cars. This is the model by which we work. We have not used the inside beams. It is applied by me and by D. outside only. We don't make use of these long bars.

I first saw these spring bumpers on the State road, about six years ago, as in D.'s bumper, at the end. I have read P.'s specification. It is applied in the same way as to the bars by us. It is applied in a different way. We don't use the bar. This description contemplates the use of the bar and the spring together. I would not make one like this (D.'s) in following the description of P. As to the spring bumper I would use the spring inside. I would use them as in the P.'s model, and not as in the D.'s.

*The guard timbers* are made by us as in this (white) model, extending from one end of the frame to the other. We don't connect to the centre at all. We have *we have* no centre piece. There are two cross timbers or guard pieces; whereas in that there are four. We don't notch, tenon, or bolt these to any centre or cross timbers at all, any more than is done there. In many instances we bolster. It sets on the spring, and the spring on the beam, which does not connect the centre with the beams in any way.

In all our freight cars the real object of all our timbers (safety beams) is applied to the support of the bolster and a stay to the truck—which is the outside frame. It has been applied as it is, for the purpose of using the box or staple. I can't say for Mr. Matheys, I have applied it myself in that way. As used here it has no tendency, without box or staple, to prevent the axle from flying up or the wheel falling.

The box is something like the plan of Mr. Kites, in his drawing. I have never seen the staple put into practical use, and kept in use in any car. The staple would prevent the axle from falling or flying up; but

the wheel would drop. The danger would not be as great from the wheel dropping as from the axle flying up. There is a degree of danger attending both. Not so much where they are not combined.

There is a coupling chain that connects the two cars together. Not as P. does, with transverse chains. With the extension of that hub, it is impossible that the wheel should fall. One and an eighth the board comes out usually from the wheel. That I think would not be sufficient. The play of the wheel, in the box, is about five-eighths of an inch. The end of the hub is so much larger than the axle. The hub being so much larger than the size of the axle, the staple would not produce a good effect. This, in the way Mr. Cooper has it, will serve for both—as he has it in this model—both the hub and the axle. There is a groove cut round the end of the staple, inside, to fit into the hub. If the hub and the staple are made to suit each other the wheel will not fall.

The centre piece—they are both intended for the same purpose. There is the difference in the mode of framing. In preventing concussion, the object is the same ; but one is applied in a different way from the other. The effect of the spring—I suppose they are similar in their effects ; I should judge by different modes of construction or operation. I am not able to say, but one should answer the same purpose as the other. Taking out the outside frame pieces, the two models are the same.

There is no difference but the centre piece, if you add the wheel axle, staple and box to the white model. I have never seen a car till after 1834. I have seen a single framed car since. The single framing would not admit of the improvement of the P. or the safety beam.

I can find nothing in the description that shows the staple as adapted to the hub.

I can't see in the drawing any thing like the staple covering the hub, as in the dark model. I saw this model last spring was a year.

I believe the model had a narrower staple when I saw it then. It had not the groove in. It was useless to prevent the wheel from falling.

I never saw one of these springs *inside*, as in the model, put to any practical use. I never saw these safety bars operating in a car in any way. I can't say that D.'s model has the advantage. I would prefer the white model to the dark one to prevent concussion.

"Take five to the pieces of timber, &c., &c." I think this does not contemplate that the outside should be a loose shifting piece like this. I don't know how it was described.

*Samuel S. Barton, sworn :* I know D. ; he builds cars. I think that he constructs cars containing spring bumpers similar to this, (white model.) Something similar to this, (black,) only two timbers together like the white. Probably two years since I have known him, and during that time I believe he has used it. The general impression is, there is a requisition from the canal commissioners to have all the cars so on the State road. I have not known him to use the safety beam under the character of a safety beam. The second timber has been in use on the road for some time, the application of which varies, I think, in the dif-

[illegible], 1841.

*[illegible] for the plaintiff.*

Peter Allison sworn: I know D.; the beam on cars is used on our State road manufactured by D. The spring that D. makes, this represents. I don't know how many—500 or 600 of them on the State road are in use. D. has been three or four years engaged in manufacturing. I have been at his place, and have seen the cars in progress of manufacture about a year since—last summer twelvemonth. I have been there several times. The spring is useful. It is generally used for freight cars and passenger cars. I deem a spring of some kind necessary. The bar or safety beam is in use in most instances. It has been useful in some cases—where the box has been applied to it to prevent the axle from flying up. Without being attached to the box there would be little use in the beam. As this is, there is no necessity for the attachment to the box. A box or staple is necessary.

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In all our freight cars the real object of all our timbers (safety beams) is applied to the support of the bolster and a stay to the truck—which is the outside frame. It has been applied as it is, for the purpose of using the box or staple. I can't say for Mr. Matheys, I have applied it myself in that way. As used here it has no tendency, without box or staple, to prevent the axle from flying up or the wheel falling.

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There is a coupling chain that connects the two cars together. Not as P. does, with transverse chains. With the extension of that hub, it is impossible that the wheel should fall. One and an eighth the board comes out usually from the wheel. That I think would not be sufficient. The play of the wheel, in the box, is about five-eighths of an inch. The end of the hub is so much larger than the axle. The hub being so much larger than the size of the axle, the staple would not produce a good effect. This, in the way Mr. Cooper has it, will serve for both—as he has it in this model—both the hub and the axle. There is a groove cut round the end of the staple, inside, to fit into the hub. If the hub and the staple are made to suit each other the wheel will not fall.

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*Samuel S. Barton, sworn:* I know D.; he builds cars. I think that he constructs cars containing spring bumpers similar to this, (white model.) Something similar to this, (black,) only two timbers together like the white. Probably two years since I have known him, and during that time I believe he has used it. The general impression is, there is a requisition from the canal commissioners to have all the cars so on the State road. I have not known him to use the safety beam under the character of a safety beam. The second timber has been in use on the road for some time, the application of which varies, I think, in the dif-

ferent cars that are constructed. I think D. has used the timber. I have not seen it applied in the manner this model represents. The frame of the white model would represent what D. constructs more distinctly than the cherry. This (D.'s) represents (D.'s small model) the parallel wheels of the construction of D. I am not so certain as to these transverse pieces, but it is like the white model of P. D. uses I think but two timbers, where in P.'s there are —. I do not know whether I am sufficiently of a mechanic to say whether this has two pieces mortised together, or only one long piece. I do not know that I am mechanic enough to say whether the application would be as enjoined. The specification as read, would seem to imply several. The cars are different as to the distances of the timbers—there is some variance, I am not aware of any for the extension of the hub. A requisition was made for Kite's safety beam on all public roads. It was passed in August, to take effect in September. The pioneer line had, I believe, one or two of Kite's within the last two years. It is introduced for the purpose of supporting the axle, so as to prevent it from falling out in case of its breaking. D. does not, that I have seen, attach the box to the second timber for the purpose of producing the combined effect of the extension of the hub and the box. D. does not add any thing like the staple. I have understood that D. is making some alterations, but I have no knowledge what they are. The parallel pieces, I would suppose, were used to strengthen the frame; my idea, however, as far as I can judge, not being a mechanic, I have seen the frames travel variously—transversely and at right angles. I think there is no similarity in this drawing as respects the *form;* whether its effect would be different, I cannot say precisely. I am not mechanic enough to know, and don't pretend to say P.'s is more efficient. I have never seen it practically put in use. I have been employed by the commissioners as one of the agents travelling on the road.

*George Brook, sworn:* I have seen some cars built by D. This is similar to D.'s large model. I am a mechanic. I should suppose there would be no difference in regard to the spring; in regard to the concussion I could not point out any difference; I work for Mr. Allison. I should suppose the mode of application was the same—the mode of operation different—but I should suppose the effect the same.

And the defendant thereupon called the witnesses whose names and testimony are as follows:

*Henry R. Campbell, sworn:* I am an engineer since 1828. D.'s model is the most ordinary model of a car body. This model, throughout, is similar to the cars used on the N. C. and Frenchtown road some years ago. I believe 1832. May have been 1833. Certainly after June, 1832. These cars had these (long inside) beams or bars passing from one car to the other, called in the patent safety bars, which I now read. I did not observe these chains. Since, these car bodies have varied in a great variety; the four-wheel cars are now gone out of use,

almost, and the long ones substituted on eight wheels. The peculiarity; these cars were built like this (P.'s) dark model. The safety bars—the guard timber inside of the wheels, I did not observe whether there or not. I did not observe these long bars. I have heard P.'s specification read. I understand this staple to be chained to confine the axle. I can't say whether it was in these cars or not. The timbers are by the patent to hold the staple.

(White model,) difference is, that in this, the beams in this car appear to be used to support the cross bolster on which the trunk vibrates; that is the purpose for which I have seen them to be used, while in the long model they are used to fix the staple to prevent the axle from turning up in case of fracture. In P. model they are not necessary to, as they are in this white model, (No. 1.) The two guard timbers support the bolster beam. The whole weight of the car is in the centre. In the cherry model the floor does not touch, so that there is an entire difference between the use of the two in the two models. In the cherry model they bear no weight, the floor rests on the other cross beams. I conceive there to be an entire difference in the use and application in the two cases. The bolster might be strong enough to support the whole body, but it would not be as strong. I would prefer diagonal braces, without staple or hole—they can be of no possible use except that. They would not prevent the axles going up in case of fracture, unless they had the staple or box. These inside beams were used on the New Castle road. The Delaware engine had iron beams longitudinally.

There was one used on the Norristown road that had wooden beams finished in 1831–2, made at the West Point Foundry. The beams were of wood, with iron boxes in them. Exactly in this position, there were four instead of two, as here; these two, and then two others nearer the centre. All had boxes—what machinists call plumber boxes—with the machine vibrating in the centre—similar boxes to these of D. They were so as to hold up the wheel in case of accident. A wheel ran between these beams as these are—a box in each beam. In the winter, the engine was delivered—winter of '32–'3. It stuck here, in Chesnut street, in the snow, from Saturday to Monday. I became engaged when the engine was in course of construction, 16th February, 1832. The plan was in existence. I was born in New Jersey. I have seen the bumpers on the Philadelphia ferry boats; they have been common to those boats ever since my recollection. They were fast in the middle, and the spring was on the ends. The boats, in consequence of the tide, almost invariably strike the corner. Ten feet in the middle was solid. Four or five feet was operating as a spring. The board was separated from the boat, and constituted a spring fastened in the middle and open at the ends. The principle was applied to a boat, instead of a car. This cherry is in the form. It is the mode of application. I can remember those ferry boats, I suppose, five-and-twenty years. The application of spring bumpers, in D.'s model, is different from P., though the effect is the same. It relieves concussion in both when the cars come together. In this (P.) it can't be used

without the safety bar, which *are* not properly a part of the car. In this they are always attached, and, consequently, must always come in play. The difference is because the spring is inside of the solid end of the car. No other difference. The first engine used on Norristown road was Baldwin's, in 1832. The imported engine arrived in '32, but was sent to Newcastle and Frenchtown.

*Frederick D. Sanno, affirmed:* I am a machinist, called so by the public, have been at least twenty-five years. I had been employed as a machinist by Mr. Wm. Fell, president of the Lehigh Coal Co., from '24 to '27. I built ———. In '28 I was invited *by* Mauch Chunk to see their works by Mr. Fell. Fifteen of us agreed to go to the mines. I saw a piece of inch board, probably six or seven inches wide, nailed to the front of the car. Appeared to me like all cars, except the frame. The piece in front fell off. It was loose in the middle, and (nailed) at both ends; and I had to hold it until we got to the half-way house. Can't say whether nailed to blocks or string pieces—one or the other. Appeared to me it was nailed to the centre. A rough piece, an inch or inch and a half from body of car. I did not measure. I would suppose it represented the front of the white model. Not made so delicate and nice. It was rough. I have not examined that model. The application by P. I would consider entirely different. The other would be outside this, with the use of appendages. I see them in all the cars at present, except mud cars. These *cross pieces* [guard timbers] appear to me to be put in for strengthening the frame and receiving springs. Last Sunday four weeks I was called out—the cars had run off the road. I have not seen used on the Augusta railroad any thing that has any thing to do with keeping the wheel from falling. I know of no one but Wm. Leipert, at Mauch Chunk, that was at Mauch Chunk. Can't tell whether there was a double framing. Only *one car* that I saw—others were coal cars. All of them had, I believe, inside bearings. I never had been at Mauch Chunk before or since. I think it was 1818. Mr. Fell. I must confess I would rather say I am not certain as to the year. In difference, but the one inside and the latter outside, and the inside machinery of the one. It was before 1830 that I was there. It was not '29. I think it was '28. I was employed by the Lehigh Coal Co., and had been unfortunate in business. It could not have been in 1826, for I was then engaged to make a weigh car by request of Mr. Fell.

*John Bingham, sworn:* I live in Philadelphia. Did live in Holydaysburg, 1836–'7–'8. Engaged as a carrier in transportation, Portage railroad and canal. I was the owner of ninety-four cars—myself and my brothers. I examined every day the frames of railroad cars; have had occasion to know the mode of constructing them.

*Guard Timbers.*—The cars we had were long cars. The short cars, single four-wheel cars, are constructed like the D. large model on Columbia railroad. On the Portage railroad there is no model here like.

We don't use cars with inside timbers. We have purchased cars that are made precisely as this is, P. white model. For eight-wheel cars, those inner timbers are used entirely to strengthen the outside frame, and to support the bolsters. The distance between the two timbers is seventeen inches exactly (I measured one) in the clear. We have other long cars, and I don't know who built them, and the distance is only eleven inches. The second timbers appear to be intended for the use of the spring. The bolster lays on four pieces in top of the spring, just as this (white) is precisely. "Make four timbers," &c. (2nd page.) I think the application is different between the guard timbers of the cherry model. They are there for a different purpose. I think for the support of the axle in case of a break. (P. cherry,) there being five cross timbers, it would not be necessary that these parallel ones should be introduced for the mere purpose of strengthening the frame.

*Spring bumpers.*—We use them every day. I have never seen bumpers to be operated on by bars in practical operation, as in P.'s model. I know P. Can't say personally acquainted till two years. He lived, I knew, at Johnstown when I did at Holydaysburg—by railroad, thirty-six miles distant. He lived there in 1836–'37–'38. I so understood. I did not know him by sight. I saw cars that were built, and he had put his name on the end. He was a car builder at Johnstown. That and Holydaysburg are the two points of termination of the Portage railroad. Our cars travelled all the time from one end to the other, so long as the season of navigation was open. We have had repairs done to our cars in Johnstown. These cars had these spring bumpers in the end. I had never any notice from P. on the subject. One of my brothers, who was the partner in business, lived in Johnstown. The name of our firm, "the Despatch Line," was on the cars. We have since changed it. Thomas Bingham acted as agent at Johnstown depot. There was a store there with the name of Thomas Bingham. I knew that Leech & Co., Jas. O'Conner & Co., Pennsylvania and Ohio line, and Ohio and Kentucky line, all used these spring bumpers. I am not so certain as to O'Conner in 1836, but he used them in 1837 and 1838. We never had any cars constructed except with the spring bumpers. From 600 to 1,000 cars were used on the railroad. To some of the cars they had them. There was leather or a strap, or something, projecting on a single frame. There is no difference whether the frame is double or single, as to the application. They are all to prevent concussion. Sometimes there are iron springs like a coach. When we sawed off the ends, we had to put pieces on the sides projecting. I lived here since spring of 1839. I built forty cars at Martinsburg; under me I had a mechanic.

I was going into business when I saw — Cooper's name on the cars. They were not exactly like any of these models; this lower truck is entirely separate from the body of the cars; and these longitudinal pieces were used to support the springs. This (white?) is something like the frame. I think there were no safety braces. I can't say I looked under the place for a staple. I noticed because I saw the cars marked "Cooper's patent."

I do not know whether Thos. Bingham ever received notice; if he did, he never communicated it to me. Can't say when cars were first placed on the Portage railroad. No writ has been served on me. We had a notice from Mr. Cooper's counsel, within two years. About the time of the injunction—but before that time. In 1836 or 1837, I first saw the cars marked "Cooper's patent"—or perhaps 1838. These may be since, with the distances, less than eleven weeks. We brought them from Cumberland. My object in measuring was to see for what purpose the frame was set upon the top.

*John M. Sailor, affirmed:* Objected to, because the notice is of *John Sailor.*

Admitted and point reserved. Since 1829 I have been acquainted with railroads and railroad cars. My first business on it was superintending laying down rails, for only a few days though. Next superintending grading—various ways. I was brought up a machinist, or rather a finisher of machinery.

The first car I ever saw built in 1830, contained four pieces, like this—two on the outer side of the wheel—either side; and two within—either side; composing the frame. The wheel was between two pieces of timber. The box rested on the two inner ones or pieces. I mean the box that was made to carry coal. I saw at the same time other cars, which had the inside timbers alone, and none outside—inside of the wheel—the journal inside. The one I rode in had journals either side of the wheel, both outside and in. The journal is the rounded part of the axle inside of the box, spindle part, in which it revolves.

I saw at the same time one rejected and thrown away; the axle between the two centre timbers had been broken, and the wheel —; there was a journal on either side, and the two journals composed the axle of one wheel. This was condemned—thrown away. Had been used in hauling coal on this same railroad. I have since had occasion to be connected with railroads, superintending cars, &c.

The difference would not exist; the two would be the same, but that there are unequal distances between the two timbers. The cherry appears to have no other use but to receive the staple or to receive a box; and the white to have no other purpose but to sustain the bolster. The adverted timbers might be used to strengthen the outside frame, but I should think they would not be necessary to support the timbers, unless they can support itself—but they would be unhandy. Every additional timber put in them would strengthen it. It would be more liable to get out of order without them. The car I rode in appeared to have been made by cutting off the ends of No. 2, or remodeling the bolster of the frame No. 1; although the distances do not have similar properties. It appeared to have been constructed with the one frame alone, and altered afterwards. The timbers are different in construction, because they are made for different purposes. I have seen cars with spring bumpers since 1836, when I came upon the Columbia railroad. They are both springs; but it must be operated on differently by different pieces. D.'s is an old spring, that I have seen as long ago as I can remember. I saw

them in first steamboat that I can remember; and they soon altered it and made it like P.'s (at the end) first steam ferry boat—either end of the boat. Either is called front, to prevent concussion, when it struck the wharf or any other object.

I left Port Carbon, in 1830, August; and went into New Jersey. I went in the fall of 1829. I was in the observation of them every day. I don't know who made the car I rode in. It appeared to be made by no very good mechanic; it was so roughly done. The road was in operation so far as it was completed; cars were running on it, drawn by horses, to Pennington. I saw no locomotives there. Robinson was our engineer. I did not know of his building any cars. I was only employed for a few days on Port Carbon railroad.

*Edward F. Gay, sworn:* I am an engineer; have been twenty-one years. I was at one time State engineer, Columbia railroad, from spring of 1833 to fall of 1838. Business naturally led me to examine the construction of cars.

*Guard timbers.*—There is a similarity in their positions, but the application is materially different. I should consider that it was designed for different purposes. One set of bars appear to have been set in to support the axle; while the other is evidently intended to strengthen the frame and support the bolster. The earlier engines for Columbia railroad were imported under my direction—not much used. I think the driving wheels did not run between two pieces of the framing itself. I remember a little wooden engine, made by Long & Norris, put on for the purpose of experiment. I think that the frame was double; wheels ran between two pieces. It was brought on to the road December, 1833. Had been used summer before on Germantown road.

*Spring bumpers.*—This end, without the slip piece, is the same. With the pieces in it, is not the same in application; though the effect to be produced may be same. Similar —.

The written specification does not apply to the white model, No. 1. The other part has the same difference. The spring bumpers were first put on the Columbia railroad in spring of 1835, by Mr. Leech, who asked permission. I considered it a very simple application of the spring, and gave permission. They increased very much afterwards. The general regulation of the road required leather bumpers, and in consequence of that he made the application to me. The little projection is necessary in the bumper. The projecting train of P. produces the same effect, when they come fairly together.

*James O'Conner, sworn:* About eight years engaged in the business, I have known them (spring bumpers) since 1834–'5, on the Columbia railroad. Have become general. Few or no cars are without them. They were first introduced in the spring of 1835, by D. Leech & Co.; by us in 1836, and universal in 1837. We had 80 cars on the Portage railroad; and had them all altered. We had no challenge of claim by P. for four years. He made no demand till twelve or fifteen, or eighteen months ago. The name of our firm is on our *bodies*, which are detached from the running gear, "James O'Conner & Co."

I made it a particular study—the construction of the cars. The time Mr. Cooper exhibited his model to me, he had no outside spring bumper. It was confined to the inside. It is materially different in the two models. This seems to have been intended to unite two cars, and take up the concussion between them; and nothing to take up exterior concussion. The invention of additional timbers immediately superseded this beam; it is infinitely superior for the purpose. New Castle and Frenchtown I think we were conveyed by simple cars. The cars carry about fifty passengers. The friction would be so great that they could not work at all. I never saw them in practical use. The single bar, also, is different in its application from D.'s model. I am not aware of a suit depending. The additional pair of wheels would alter the thing entirely; they would permit the cars to play more freely.

I think this was not the model P. showed me. I did not see any at the Patent Office. He showed me it at the Red Lion hotel. The result would be the same. The single bar would be preferable to the double bar. I am now using the common spring bumpers.

*John Murphy, sworn:* I do the iron work of cars, since 1834, July. Spring bumpers. The application appears to me to be the same—i. e. the spring; but it is not applied in the same way. I don't see how these bars would work on a curve. Can't see that this would be of any use. I never saw it in operation. This could not do without the bars. It strikes the bars, and that does not. Concussion on a curve I should think this bar would bend. I should think it would tend to throw the cars off the track. We build a great number of cars. From this to the axle is about six or eight inches. If we set the springs on the cheeks it is to strengthen the frame, and support the springs of course. Eighteen inches would be too near the centre. Kite has an extension of three inches in his hub. They are different, because they ought to be eight inches apart, according to Cooper's; must be ten to support the springs.

D. closes. And plaintiff called.

*John Logstan, sworn:* I helped to make this, I believe, in 1832, except the slip at the end and the wheels are not the same. This has been made to take off. The wheels are smaller. I made it in New Castle. I saw it applied to practical use in New Castle and Frenchtown railroad. I made it for P. before he got his patent. I had never seen any thing of the kind before. Cars were in use when I went there in March, 1832. This single frame is the sort of car used. I went there to work at cars. I had made models—I made five models for Mr. Cooper—two were sent to the Patent Office. There were other improvements before he went to New Castle and Frenchtown road, about the year 1829 or 1830—this was in carriages or trucks. It had the parallel timbers—it had the carriages something like this would be—the truck No. 2, with the top off. I have known accidents to happen, before the application of his bars and spring bumpers on the New Castle and Frenchtown railroad, for the want of them. I think I have known the cars to run against the platform at Frenchtown, and run off the track; those that

had the protection did not go off the track. The safety bars prevented the injury. After they were used, these accidents did not occur. I have never known any thing to happen to the cars after they were all on. I have known the axle to break near the wheel, and the wheel to be kept in place by the two timbers. It breaks generally at the trucks. I think the addition of this timber is an advantage in preventing the wheel falling, and the axle flying up. This timber inside prevents the axle from flying up. The staple is useful to hold the axle to its place in case it would break. I was acquainted with the cars on the Susquehanna and Baltimore railroad. Something like this—single frame. I don't know of any other—till P.'s. His was different, something like this—I lived in Baltimore. It was in 1829 or 1830—I think about three years before I went to New Castle.

*Cornelius D. Blaney, sworn:* I have knowledge of the New Castle road, was secretary at the time of its going into operation. Completed late in the fall of 1831, and we commenced business. Transferred the line that had been running by stages during the winter of 1831 and 1832. The passenger cars were purchased from Mr. Cooper, the Stranger from Baltimore. Long. To carry thirty passengers. Burden cars had been previously used. Those cars were square frames, braced in various ways—recollection not very distinct. The improvement introduced by P. was this model identically—except some little difference. On our table for months. Very shortly after the locomotives were introduced, September, 1832. I think—P.'s imports. P. was there himself, had charge of the car department before the road was completed. We thought we found an advantage. Cars must come down, if the car would break. This was thought to promote absolute safety, either in case of breaking a wheel or axle. Cars run more steadily—not the lateral vibration. I never knew the cars to be thrown off the track that had the bars. I am not much of a mechanic. Am recorder of deeds and clerk of C. P. Came to New Castle late, I think, in 1831. On his coming, all the difficulties were corrected. P. was for months making his improvements or drawings of it. He exhibited it at the office some time before he went to Washington. The officers were constantly talking about the accidents that were happening. P. brought the Stranger from Baltimore, not new, had been used before. That I think was without his improvements. I am not certain whether it had not the safety bars. Until afterwards put into train with other cars. I don't think it had the parallel timbers. Had not the spring bumper, I believe. I think it was purchased before the road was opened to the public as a travelling road. Two or three months perhaps. A committee met. But the directors met often, and took charge of every thing—passed resolutions—Mr. Jarvies, president. Had an interest. Mr. W. D. Lewis and Nevins took a good deal of interest in it. The Delaware was the first locomotive—from England—not Ralston's. We got the captain of the ship to attend. She was here three or four months. Baldwin was employed here, and a Scotchman who pretended to know all about it.

The last we got run better. Two, something like this—I think the staple was not fixed as this is. There was a box and journal, and a staple, perhaps a wire one, fastened to, and dependant on, the guard timber.

*William H. Dobb, sworn:* I live at New Castle, since June, 1834. Mr. Kite was there, and was examining the cars—fall of 1834. Came down about locomotive building for Germantown railroad, of which he was superintendent. He went into where the safety beams were; staid long enough to examine them. Cooper's strengthening the same as this does. If it had box or staple the same thing would exist; the intention is to produce a result. I have seen the cars, with our safety beam, run off; while those with it staid on. The cars used were our eight-wheel cars. I have not the bar or staple. The trucks are just a square beam, with just a centre beam, and without any inner bars. The tender frames are like these; eighteen inches would be too much. The axle would not, if it break, go higher than the timber.

*Wm. D. Lewis, sworn:* When the New Castle road was put into operation P. was employed as a carpenter in the car shop. He brought a car of peculiar construction, and remained without being employed. I speak of nine or ten years. He was employed by the company in that he was an ingenious man. This model brings to my mind an improvement to prevent cars falling down in case a wheel should break. Who suggested it I don't know. It was adopted and used for a time. Laid aside, I think, afterwards; not from any imperfection in the plan itself, but from the disposition of all persons to do their work with as little trouble as possible. P. was in the employ of the company when it was introduced. Until Mr. Cooper came I never knew of a similar improvement. This was introduced in consequence of an accident, but I don't recollect what it was. Cast iron wheel broke in the train in which *which* Mr. McDuffie was going from the boat. Investigation in 1832.

*Deposition of Benjamin Hayward.—*

*Lucia Chase, sworn:* I live at No. 6. *Mr. Chase.* I went to New Castle, 1st July, 1833. The cars there used were on this cherry model, to both. No difference than this—has two connected and wire chain to them. I am coachmaker and car building. I had never seen any thing of the spring bumper previously to going to New Castle. I had been at work on the Norristown and Germantown road—in employment off and on. The beams or bars were not in use on the Norristown railroad. There were but two sets of safety beams. When I first went there; afterwards they were used to the whole train. After the train was so fastened. Manner of fixing on the wheel, was by a round key, tapering, one half out of the axle and half out of the hub. In taking the cars apart we found the axle broke off inside the hub, and it had come in safely in that way, and went into the car house. The axle was merely supported by the use of the guard timbers and safety beams. There was no staple. Fall of 1833, the cars went off. By reversing the engine, suddenly

a concussion came on, and the wheel that had this remained in, and were not injured. All that fell off were more or less broken. The spring timbers in both are applied to take up concussion. The improvement is substantially the same. The position is not the same. The striking is the same. I mean they are the same. The white model of P.'s represents the guard timber as much as the D.'s model does. This white one would present the wheel falling, or axle flying up. The two inside timbers (white model) presents the axle flying up. The distances from outside to outside are six feet three—as far as I recollect. Guard timber are about twelve inches from the outer frame. No box was on the guard timber. Wheels, tread, flange, and all, six and a half inches wide. The axle is three inches in diameter. The hub is eight, or may be nine or ten. The journal moves on the box outside, the axle comes inside. The two springs can come directly together in that frame as well as this. All the spring bumpers where they come together are the same thing. There is a piece there which answers the same purpose as the other. One portion of the axle was right inside the hub. The axle was broke off. The crack through the iron was not separated far enough for me to see it until he raised up the car to clear the journals. It broke off at the shoulder. It was completely broke, not cracked. We could not get the wheels off till he raised up the car. It had no box inside. No staple. P. was there when I went to New Castle. He continued there till April, 1834. These cars continued till he left and after, till the long cars were put in. The bars were kept on as long as the short cars were used. I don't think the wheel could get out in any proposed case.

*Robert H. Barr, sworn*: I was employed in May, 1833, as agent of New Castle and Frenchtown railroad. The cars there used, when I came there, like this model, without guard timber. The model was then with them. I had them put in by order of the directors. An accident occurred, and Mr. Nevins wrote to me, and I told him there was something in the shop that must be useful, and I'd have it put in. There was a spring timber. All four-wheel cars then. Have all eight-wheel cars. They are very useful, necessary, essential. This I call the best improvement in the nation. Safety bars—taking up the concussion inside. Before Mr. Cooper went away, two cars were built by him with those guard timbers. I saw the advertisement of his improvement in the Washington newspaper. The spring timber operate in the same way. No four-wheel car ought to be run with the bumper on the end, or eight either, if we study the life of the community. I think the guard timbers are substantially the same. I have examined the *Delaware*. She is a stay-rod engine, imported. Four of them in New Castle; they are fastened fore and aft, to stay the cylinder boxes and cross axle. The reverse gear and the eccentrico, work on the axle which works through the stay-rods. The principal parts are supported by it, three inches by one—some parts larger. No way attached to the frame—only connected with the boiler. They are not like this at all. They are now

dispensed with and thrown aside. If the axle were to break, the wheels would not fall off; with our journals, it could not, at all events, without the beam. The distance is not enough. It might run hundreds of miles without any possibility of its getting out. This (white) is wider. It would have to be made wider to receive the new invented box, Kite's, as it is called. I think there was a staple or support from the guard timbers in the model. Until I saw these spring timbers, I had never heard of springs or spring timbers being used—so with regard to the guard timbers. I was connected with steamboats, two or three years before going to New Castle. No connection with the ferry steamboat on this river. I recollect something of a slide that would run in when they came *to* contact. It would drive it in when they came together—these were cranks. I have seen the hickory stick for a valve, being drawn from its place; it falls in again. Some worked in that way, and some (like a lever.) That was not a spring. Elliptic springs to carriages—I have seen three or four years. My notice has not been drawn to it. The different *mode* of springs is, that one is fastened in the centre, the other at the end. One requires bars, or something of the kind, the other requires that two cars should come together, to give them effect. I don't see any difference in the application, there is in the length of the timber. At a distance from eighteen to twenty inches, it would depend entirely on what kind of journal is used, whether the wheel would drop. We have some that would come out—what we use generally, it certainly would not. It is probable that at that distance, there is a possibility of its getting out. If nine inches would come out of seven, it would come out. Until it gets clear of the box, it can't get out. In this (D.'s little model) I think the journal would be the main support; it would hold the wheel the whole length of the journal. In some it would come out, ours it would not. We have had a trial. It run several miles without coming out. Our eight-wheel cars are framed like this, (white,) except the bolster, which is secured to the body of the car instead of the truck. We had some of these (D.) and found them good for nothing; they cost something and we threw them aside. We use no spring bumpers on our long cars—we use a leather cushion. I do not prefer them, I prefer the spring bumper. This is my preference of all others. Spring timber in the centre, and then you must have bars of some sort, and the stronger the better. They are not troublesome. We attach, or detach, in less than a min. *min.* I have not control. The directions say, the six inches of the journal would have to get out before the wheel would fall. Without some other guard behind the wheels, it would fall. If the axle were to break inside, we should have no precaution. The safety bars prevent the rearing of the cars. Our axle, if broken, would fly up.

*Josiah White*, *affirmed*: On the M. C. road they began to use cars in April or May, (1829.) 1827 we had cars ready to go on. I continued there till fall of 1831. In the spring of 1827 it was all graded. There was nothing like these spring timbers. I built the coal

cars. They were not on them. I permitted one of our neighbors to build cars for passengers. We don't have guard timbers. Nothing inside. Several passenger cars ran together. We began with a single one. Then added together. First couplings must have been English or chain couplings. After that we adopted stiff couplings, that fall. We found we could not manage it. Our cars were like this single frame, the wheel run outside.

Jos. Lippencott was the person. I am generally acquainted with cars on the other roads in the coal region. Never saw these improvements, or these spring timbers, or guard timbers.

Our grade for eight miles was descending; and we could not manage the loose coupling. Whether this young man put any thing across to prevent their striking in the centre, I can't tell; very natural he should. The whole train was made like a single car, by the stiff coupling. Our frames were like these plates, (exhibited.) Our journals were four inches long. I think frequently break the axles directly near the hub. Our wheel would drop off—being outside. By these two bars the wheel would be supported, and would fall off like a common wagon wheel. I have seen elliptic springs of carriages. In 1807 or 1808, I bought a *gig*, for a little journey. It rested on two springs, nearly straight, a little out of straight—steel. It would operate in principle exactly like this. I think it was supported in the middle, and pressure on the two sides; but they had them different ways. In 1816–'17 we rolled a great deal of steel and iron together, for the purpose of making them. In Jersey. Seats of market wagons, and our common wagon have seats.

*Erskine Hazard, affirmed:* I have seen spring timber and guard timbers on Columbia railroad. I have not seen them in the coal region at all since 1828. From the first of the coal business I have been conversant with cars in that region. Cars have been variously braced in that region. I have seen the frames used on the Columbia railroad. With other timbers. Not in the coal region. Almost all the cars are made with four; some with five timbers; including the end pieces. I have seen steel and wooden springs under carriages. I presume all springs would operate on the same principle by their elasticity. Springs on common carriages. I remember the first car that was built, at M. C., under the direction of a young man by the name of Lippencott. A board might have been nailed without my seeing it. I found that the cars required some substitute for loose couplings. Every thing was experiments. This was next to the Quincy railroad. A stiff coupling was adopted.

*Mr. Chase:* I said that when I went to New Castle the frames were similar to these. I mean the guard timbers were not in those used, but were immediately afterwards put in. I put in the first that were put in. Only two were finished with that I did. The rest were all the same as this.

*John McPike, sworn:* I live at New Castle. I came there April, 1832. Road was used then. Single frame cars were used. Changes

took place in 1832, under P.'s direction. Safety bars in the cherry model were made. Spring was placed here in the ends—i. e. spring bumpers. They are useful. I did know of an accident at the time they were used. Two had them in—the safety bars; and the others got off the road. This did not. I never heard of any accident with this improvement of P. I am a blacksmith. I have been employed about car making. I consider the springs the same in both models; for the same purpose. Both are alike as to the value. Both have the same effect; answer the same purpose. The guard timber will prevent the axle from flying up, or the wheel from falling. Same thing would be from the white model. The wheel can't get out. The bumper was on the extreme ends. The wheel is three feet, and it cannot possibly fall. One axle has a round washer. The timber prevents it from shuffling about. It guards it thus. And it has not a chance to slide. I don't believe it can drop. It would not keep it steady without the guard timber. I do iron work for the cars. I do all the iron work except the wheels and axles.

*Dr. Benjamin Rugler, sworn*: I superintended the M. C. and S. H. railroad, in Schuylkill county. I have been on the whole of the roads in that county. I have never seen any cars for coal cars *for* spring timbers. All are made with square frame. A single oblong frame. Always mortised and tenanted together. I have very often indeed seen those in the M. C. road. They are of the same construction. Only not so wide. Seven or eight years since I left the place. I have seen the cars on the Mount Carbon, and speak of these cars as the others.

*John Carpenter, sworn*: I live in New Castle. I was there all my life—working at car building eight or nine years. Put into use these frames in 1832. After P. coming there. Used something like this. Single frame before. Frames of this (cherry) kind were made. Mr. Logstan made the models. I don't know whether I helped or no.

*James Stimpson, sworn*: I have some knowledge of cars and railroads. Since the earliest erection of them. My attention was first called to them in 1827. I was in Baltimore. I invented a horse car in 1827. Went to reside in Baltimore in 1829. Cars were like this, open frame. All passenger cars were four wheels. *Guard timber.* In case of fracture of axle, no question it is an improvement to prevent the rising of the axle into the body of the car. Reasons are two. An entirely empty car might be counterbalanced, if it fell; the staple or box would come into use. The position of the wheel would be to run off inside; if it fell off, the position would be the reverse, the flange would keep it on. Any person seeing a wheelbarrow, would see how a wheel would cant, coming towards him, held by adhesion, in proportion seven to ten. When broken, the action is in favor of out of plum, a sort of paradox. I was placing pivots in N. C., fall of 1832. I saw this improvement then about to be introduced. P. was superintending his improvement. He showed me his plans. I rode in the cars a number of times

that he had them in. All the loose play in the journal would be insufficient, the outer timber would keep it on, while the axle —— light carriages would require the staple—a variation of the distance of the guard timber, would not vary the effect. If the guard timbers were in the centre with the staple, it would not vary the effect. The reasons of its being safe are two, the face of the wheel, inside of the hub, I should think at least eight inches on the side of the band—axle three inches within the hub of the wheel. When the axle is broke, the deviation has got to be made equal. All this variation must be made to get round it. If the staple was there, it must keep nearly or quite in the centre. The arrangement of spring bumpers was new to me in all respects. This (cherry) effect would be better. Concussion takes place near the centre of gravity, has no effect to produce lateral action, as it would have here in the end, where the centre of gravity is distant; so with the other inside spring timbers, both sets being hung near the centre of gravity. I had seen cars on the Baltimore and Ohio railroad and Susquehanna, they were four-wheel cars, they had no guard timbers or spring timbers. The N. C., in 1835, had none either, they had boxes, very narrow, the road itself is narrow. No occasion for spring timbers. I speak of passenger and coal cars both. The body of both was longer than the frame. The bodies here overreach the frame. In the eight-wheel cars it is different. The passenger cars, the axle was very small, frame very slight. They did not suppose there was any danger. Hind wheel varied going up, and I made them turn the car round, and placed it behind you. If they had a spring timber, it would have a breeching rather than a spring, and a going down. I consider these both valuable and important to the safety of both property and life.

Whereupon, the court charged the jury that, to entitle the plaintiff to recover, it must be made to appear that the thing invented, the thing patented, and the thing infringed, are the same; but that, in this case, it appeared, from an inspection of the patent, the specification, drawing, and models of the plaintiff's machine, compared with the models of the cars used by defendant, as exhibited at the trial, respectively, were not the same, and that, as matter of law, an infringement was not made out.

The court also charged the jury that, from the evidence in the cause, they might presume a dedication, abandonment of, or a license by the plaintiff, to the use of his improvement, notwithstanding he had marked the cars constructed by him "Cooper's Patent."

The court also charged the jury that, if they believed that the plaintiff was not the original and first inventor or discoverer of the thing patented, or of a substantial and material part thereof claimed as new, or that it had been in public use, or on sale, with the consent and allowance of the patentee, before his application for a patent, the plaintiff was not entitled to recover.

To which several matters and things so given in charge to the jury, the counsel for the plaintiff did then and there except, and prayed the court to affix their seals thereto, which is accordingly done.

HENRY BALDWIN, [L. S.]
JOS. HOPKINSON, [L. S.]

And now, to wit, on the twenty-first day of October, in the year last aforesaid, (1841,) the jurors aforesaid, on their oaths and affirmations aforesaid, respectively, do say that they find for the defendant, with six cents costs. And thereupon judgment for the defendant.

UNITED STATES, EASTERN DISTRICT OF PENNSYLVANIA, *sct.*

I certify the foregoing to be a true and faithful copy of the record and proceedings in the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, in a certain action on the case for an infringement of patent right therein lately depending, Isaac Cooper, plaintiff, and John Matheys, defendant.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said circuit court at Philadelphia, this fifth [L. S.] day of January, A. D. 1842, and in the sixty-sixth year of the Independence of the said United States.

FRA. HOPKINSON,
*Clerk Circuit Court.*

*Writ of Error.*

UNITED STATES, *sct.*

The President of the United States to the judges of the circuit court of the United States, holden in and for the eastern district of Pennsylvania, in the third circuit, greeting:

Because that, in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Isaac Cooper, plaintiff, and John Matheys, defendant, in a plea of trespass on the case for infringement of patent right, a manifest error has intervened, to the great damage of the said Isaac Cooper, as in his complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf:

You are hereby commanded that if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States, on the second Monday in January next, at the city of Washington, being the seat of National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Washington, this sixth day of November, A. D. 1841, and of the Independence of the United States the sixty-sixth.

FRA. HOPKINSON,
*Clerk Circuit Court.*

Allowed as reasonable under the 17th section of act of 1836.

HENRY BALDWIN.

UNITED STATES, EASTERN DISTRICT OF PENNSYLVANIA, *sct:*

*To John Matheys.*

Whereas, by a writ of error, issuing out of the Supreme Court of the United States, directed to the Judges of the Circuit Court of the United States, holden in and for the Eastern District of Pennsylvania, in the third circuit, wherein Isaac Cooper is the complainant, the said judges are directed to send the record and process of a certain suit, with all things concerning them, so that the same may be had before the chief justice and associate justices of the Supreme Court of the United States on the second Monday in January next, at the city of Washington, being the seat of National Government; in which suit the said Isaac Cooper is original plaintiff, and you the said John Matheys defendant, in a plea of trespass on the case for infringement of patent right; that the record and process aforesaid, being inspected, they, the said Supreme Court, may cause to be done thereupon what of right ought to be done. And the said Isaac Cooper having made an assignment of errors, and given good and sufficient security that the plaintiff in error shall well and truly prosecute his said writ of error to effect, and answer all such costs as upon an affirmance of the judgment of the said Circuit Court may be adjudged to the respondent in error. You are hereby cited to appear (if you see cause) at the said Supreme Court, at the time and place aforesaid, to answer to the said writ of error, and the errors assigned by the said Isaac Cooper, complainant.

Given under my hand and seal, this sixth day of November, one
[L. S.] thousand eight hundred and forty-one.

HENRY BALDWIN,
JOS. HOPKINSON,
*District Judges.*

And now, to wit, on the twenty-first day of October, in the year last aforesaid, (1841,) the jurors aforesaid, on their oaths and affirmations aforesaid, respectively, do say that they find for the defendant, with six cents costs. And thereupon judgment for the defendant.

UNITED STATES, EASTERN DISTRICT OF PENNSYLVANIA, *sct.*

I certify the foregoing to be a true and faithful copy of the record and proceedings in the circuit court of the United States in and for the eastern district of Pennsylvania, in the third circuit, in a certain action on the case for an infringement of patent right therein lately depending, Isaac Cooper, plaintiff, and John Matheys, defendant.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said circuit court at Philadelphia, this fifth [L. S.] day of January, A. D. 1842, and in the sixty-sixth year of the Independence of the said United States.

FRA. HOPKINSON,
*Clerk Circuit Court.*

*Writ of Error.*

UNITED STATES, *sct.*

The President of the United States to the judges of the circuit court of the United States, holden in and for the eastern district of Pennsylvania, in the third circuit, greeting:

Because that, in the record and process, and also in the rendering of judgment, in a suit before you, or some of you, between Isaac Cooper, plaintiff, and John Matheys, defendant, in a plea of trespass on the case for infringement of patent right, a manifest error has intervened, to the great damage of the said Isaac Cooper, as in his complaint has been stated; and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf:

You are hereby commanded that if judgment thereof be given, then, under your seal, you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the chief justice and the associate justices of the Supreme Court of the United States, on the second Monday in January next, at the city of Washington, being the seat of National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon what of right ought to be done.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Washington, this sixth day of November, A. D. 1841, and of the Independence of the United States the sixty-sixth.

FRA. HOPKINSON,
*Clerk Circuit Court.*

Allowed as reasonable under the 17th section of act of 1836.

HENRY BALDWIN.

UNITED STATES, EASTERN DISTRICT OF PENNSYLVANIA, *sct:*

*To John Matheys.*

Whereas, by a writ of error, issuing out of the Supreme Court of the United States, directed to the Judges of the Circuit Court of the United States, holden in and for the Eastern District of Pennsylvania, in the third circuit, wherein Isaac Cooper is the complainant, the said judges are directed to send the record and process of a certain suit, with all things concerning them, so that the same may be had before the chief justice and associate justices of the Supreme Court of the United States on the second Monday in January next, at the city of Washington, being the seat of National Government; in which suit the said Isaac Cooper is original plaintiff, and you the said John Matheys defendant, in a plea of trespass on the case for infringement of patent right; that the record and process aforesaid, being inspected, they, the said Supreme Court, may cause to be done thereupon what of right ought to be done. And the said Isaac Cooper having made an assignment of errors, and given good and sufficient security that the plaintiff in error shall well and truly prosecute his said writ of error to effect, and answer all such costs as upon an affirmance of the judgment of the said Circuit Court may be adjudged to the respondent in error. You are hereby cited to appear (if you see cause) at the said Supreme Court, at the time and place aforesaid, to answer to the said writ of error, and the errors assigned by the said Isaac Cooper, complainant.

Given under my hand and seal, this sixth day of November, one
[L. S.] thousand eight hundred and forty-one.

HENRY BALDWIN,
JOS. HOPKINSON,
*District Judges.*